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NOTICE OF ALLOWANCE AND FEE(S) DUE

25189 7590 07/25/2003

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

EXAMINER

VENIAMINOV, NIKITA R

ART UNIT

CLASS-SUBCLASS

3736

600-009000

DATE MAILED: 07/25/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,135	02/28/2002	Vincent Ardizzone	01-9424	4391

TITLE OF INVENTION: BI-AXIAL ROTATING MAGNETIC THERAPEUTIC DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$650	\$300	\$950	10/27/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.
- ☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
Alexandria, Virginia 22313-1450
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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25189 7590 07/25/2003

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,135	02/28/2002	Vincent Ardizzone	01-9424	4391

TITLE OF INVENTION: BI-AXIAL ROTATING MAGNETIC THERAPEUTIC DEVICE

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nonprovisional	YES	\$650	\$300	\$950	10/27/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
VENIAMINOV, NIKITA R	3736	600-009000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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10/087,135	02/28/2002	Vincent Ardizzone	01-9424	4391
25189	7590	07/25/2003	EXAMINER	
CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211			VENIAMINOV, NIKITA R	
			ART UNIT	PAPER NUMBER
			3736	11
DATE MAILED: 07/25/2003				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The patent term adjustment to date is 88 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 88 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

Any questions regarding the patent term extension or adjustment determination should be directed to the Office of Patent Legal Administration at (703)305-1383.



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CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211 UNITED STATES			VENIAMINOV, NIKITA R	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 07/25/2003

Notice of Fee Increase on January 1, 2003

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after January 1, 2003, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there will be an increase in fees effective on January 1, 2003. See Revision of Patent and Trademark Fees for Fiscal Year 2003; Final Rule, 67 Fed. Reg. 70847, 70849 (November 27, 2002).

The current fee schedule is accessible from: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of the fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after January 1, 2003 (or mailed with a certificate of mailing on or after January 1, 2003), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO on the date indicated below.

Daniel M. Cislo Esq. (Depositor's name)
 (Signature)
 8/12/03 (Date)

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VENIAMINOV, NIKITA R	3736	600-009000

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2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

Cislo & Thomas LLP

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Nu-Magnetics, Inc.

Port Jefferson, New York

Please check the appropriate assignee category or categories (will not be printed on the patent)

☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

☒ Issue Fee

☒ check in the amount of the fee(s) is enclosed.

☒ Publication Fee

☐ Payment by credit card. Form PTO-2038 is attached.

☐ Advance Order - # of Copies

☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 03-2030 (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

Daniel M. Cislo, Esq.

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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08/18/2003 HBERHE1 00000125 10087135

01 FC:2501

02 FC:1504

650.00 OP
 300.00 OP

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Notice of Allowability

Application No.

10/087,135

Examiner

Nikita R Veniaminov

Applicant(s)

ARDIZZONE, VINCENT

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-42.
3. ☐ The drawings filed on ____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No. ____.
 - (b) ☐ including changes required by the proposed drawing correction filed ____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. ____ |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>7&9</u> | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

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EXAMINER'S AMENDMENT

11/B

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Kelly W. Cunningham on July 22, 2003.

3. The application has been amended as follows:

In the claims:

In claim 1, line 9 the phrase "members" was changed to -- member --;

In claim 5, line 15 the phrase "said gripping surface" was changed to -- a gripping surface --;

In claim 13, line 11 the phrase "said speed differential" was changed to -- a speed differential --;

Claim 21 was re-written as follows:

-- A therapeutic device comprising a magnetic body [for therapeutic use] mounted in a housing wherein said magnetic body rotates relative to said housing in two directions simultaneously such that an axis of a first rotation is substantially 90 degrees displaced from an axis of a second rotation. --;

B 1

B

Art Unit: 3736

In claim 30 the phrase "the" after the phrase "and" line 1 was deleted; the phrase "a" in line 2 was changed to -- said --;

In claim 31 the phrase "the" after the phrase "and" line 1 was deleted; the phrase "a" in line 2 was changed to -- said --;

Claim 32 was re-written as follows:

-- A method for treating a portion of a human or animal anatomy comprising the steps of:

placing a magnetic device including a magnetic body over said portion of the anatomy [wherein said magnetic device rotates a magnetic body];

rotating said magnetic body by said magnetic device about an axis of a first rotation; and

simultaneously [rotates the] rotating said magnetic body about an axis of a second rotation oblique to said axis of the first rotation. --.

B2

4. The following is an examiner's statement of reasons for allowance: Souder ('055) cited by Applicant teaches a magnetic therapeutic device which subjects a treatment area such as an anatomical area to a dynamic magnetic field having a magnetic source which may be rotated, oscillated, moved through a particular pattern, or otherwise moved relative to the treatment area and a method of treating a portion of a human anatomy with said magnetic therapeutic device (see abstract; Figure 2; Figure 14 and column 6, lines 41-64). Kleitz ('720) cited

Handwritten signature or initials.

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by Applicant teaches a magnetic massage wand apparatus with a motorized revolving wand including magnetic units aligned and spaced to obtain constantly alternating polarity fields at 90 degrees angles about the wand creating a general therapeutic effect of magnetism; and a method of treating a portion of a human anatomy with said magnetic massage wand (see abstract; Figures 1 and 3).

However, none of the prior art, either alone or in combination, teaches or suggests a therapeutic magnetic device comprising a motor enclosed within a cover; a connection to said motor; a free moving member connected to said connection, said free moving member having an inner surface substantially defining a chamber and said free moving member having at least two openings; a magnetic unit rotatably housed in the chamber and having two protruding arms extending for said magnetic unit in diametrically opposite directions and through at least two openings in said free member; a rolling member mounted on an end of one of said two protruding arms; an annular rolling surface mounted in a cover for imparting an angular force on said rolling member as said rolling member moves along said annular rolling surface; a retainer member which exerts an axial force on said free moving member to insure that rolling member engages with said annular rolling surface; wherein said magnet unit is held so as to rotate about two axes at the same time. Further, none of the prior art, either alone or in combination, teaches or suggests a therapeutic magnetic device comprising a therapeutic device comprising a rod mounted to a magnet and having at least one end extending beyond a free moving member; a free moving circular track; a



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stationary circular track that does not rotate relative to a motor; a drive gear mounted to at least one of two ends of a rod, and in contact with said free moving circular track and with said stationary circular track; and wherein a time-varying field of magnetic flux density and a time varying field of angular flux displacement is produced from the simultaneous rotating and rolling of said magnet about each of first and second axes of rotation for therapeutic use on a human or animal body. Also, none of the prior art, either alone or in combination, teaches or suggests a therapeutic device comprising a magnetic body mounted in a housing wherein said magnetic body rotates relative to said housing in two directions simultaneously such that an axis of a first rotation is substantially 90 degrees displaced from an axis of a second rotation. Finally, none of the prior art, either alone or in combination, teaches or suggests a method for treating a portion of a human or animal anatomy comprising the steps of placing a magnetic device including a magnetic body over said body; rotating said magnetic body by said magnetic device about an axis of a first rotation and simultaneously rotating said magnetic body about an axis of a second rotation oblique to said axis of the first rotation.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita R Veniaminov whose telephone number is (703) 605-0210. The examiner can normally be reached on Monday-Friday 8 A.M.-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric F Winakur can be reached on (703) 308-3940. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0758 for regular communications and (703) 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Nikita R Veniaminov
Examiner
Art Unit 3736

July 22, 2003.



ERIC F. WINAKUR
PRIMARY EXAMINER

